

# Title 208 WAC

## FINANCIAL INSTITUTIONS, DEPARTMENT OF

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### Chapter 208-630 WAC

#### CHECK CASHERS AND SELLERS—REGULATION OF

(Formerly chapter 50-30 WAC)

### WAC

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#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 208-630-760 | What are the legal restrictions on making small loans? [Statutory Authority: RCW 31.04.165, 43.320.040, 31.45.030, 31.45.050, 31.45.200, 05-22-009, § 208-630-760, filed 10/21/05, effective 11/21/05.] Repealed by 07-23-094, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 43.320.040. |
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**WAC 208-630-110 What definitions are required to understand these rules?** The definitions in RCW 31.45.010 and this section apply throughout this chapter unless the context clearly requires otherwise.

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"Act" means chapter 31.45 RCW.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is in common control with another person.

"Agent" for purposes of RCW 31.45.079 means a person who, pursuant to the terms of a written agreement and for compensation, performs small loan agent services on behalf of an exempt entity.

"Annual percentage rate" or "APR" means the cost of credit expressed as a yearly rate, determined in accordance with the federal Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.), and Regulation Z (12 C.F.R. Part 226 et seq.), as amended.

The Office of the Comptroller of the Currency (OCC) has developed an APR calculator (APRWIN) that licensees may download and use without charge. APRWIN is available on the OCC's web site at <http://www.occ.treas.gov/aprwin.htm>.

"Board director" means a director of a corporation or a person occupying a similar status and performing a similar function with respect to an organization, whether incorporated or unincorporated.

"Check" means the same as defined in RCW 62A.3-104(f) and, for purposes of conducting the business of making small loans, includes other electronic forms of payment, including stored value cards, internet transfers, and automated clearing house transactions.

"Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

"Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose.

"Close of business" for the purposes of RCW 31.45.86 and these regulations means the actual time a licensee closes for business at the location from which a small loan was originated or 11:59 p.m. Pacific Time, whichever is earlier.

"Department" means the department of financial institutions.

"Exempt entity" means a person described in RCW 31.45.020 that is engaged in the business of making small loans.

"Investigation" means an examination undertaken for the purpose of detecting violations of chapter 31.45 RCW or these rules or obtaining information lawfully required under chapter 31.45 RCW or these rules.

"License" means a license issued by the director to engage in the business of check cashing or check selling under the provision of chapter 31.45 RCW.

"Monetary instrument" means a check, draft, money order or other commercial paper serving the same purpose.

"Payday advance lender" or "payday lender" means a licensee under this chapter who has obtained a small loan endorsement under RCW 31.45.073.

"Payday advance loan," "payday loan" or "deferred deposit loan" means the same as a small loan.

"Postdated check" means a check delivered prior to its date, generally payable at sight or on presentation on or after the day of its date. "Postdated check" does not include any promise or order made or submitted electronically by a borrower to a licensee.

"RCW" means the *Revised Code of Washington*.

"Small loan agent services" means all or substantially all of the following services:

- (1) Marketing and advertising small loans;
- (2) Taking small loan applications;
- (3) Assisting customers in completing small loan documentation;
- (4) Providing required disclosures;
- (5) Disbursing small loan proceeds;
- (6) Collecting small loans;
- (7) Retaining documents and records; and
- (8) Making reports.

"State" means the state of Washington.

"Unsafe or unsound financial practice" means any action, or lack of action, the likely consequences of which, if continued, would impair materially the net worth of a licensee or create an abnormal risk of loss to its customers.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-110, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200, 05-22-009, § 208-630-110, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-130 How does a business apply for a check casher's or seller's license or a small loan endorsement to a check casher's or seller's license?** Each applicant for a check casher license, or check seller license, or a small loan endorsement to a check casher's or seller's license must apply to the director by filing the following:

(1) An application in a form prescribed by the director including at least the following information:

(a) The legal name, residence, and business address of the applicant if the applicant is an individual or sole proprietorship, and in addition, if the applicant is a partnership, corporation, limited liability company, limited liability partnership, trust, company, or association, the name and address of every member, partner, officer, controlling person, and board director;

(b) The trade name or name under which the applicant will do business under the act;

The director or the director's designated representative may deny an application for a proposed license or trade name if the proposed license or trade name is similar to a currently existing licensee name, including trade names.

(c) The street and mailing address of each location in which the applicant will engage in business under the act;

(d) The location at which the applicant's records will be kept; and

(e) Financial statements and any other pertinent information the director may require with respect to the applicant and its board directors, officers, trustees, members, or employees, including information regarding any civil litigation filed within the preceding ten years against the applicant or controlling person of the applicant;

(2) A surety bond and related power of attorney, or other security acceptable to the director in an amount equal to the penal sum of the required bond as set forth in this rule. In lieu of the bond, the applicant may demonstrate to the director net worth in excess of three times the amount of the penal sum of the required bond in accordance with RCW 31.45.030 (5)(b) and (e) and this rule;

(3) A current financial statement as of the most recent quarter end prepared in accordance with generally accepted accounting principles which includes a statement of assets and liabilities and a profit and loss statement;

(4) Information on the applicant's or any affiliate's current or previous small loan or related type business in this state or any other state, including, but not limited to, name, address, city, state, licensing authority, and whether any enforcement action is pending or has been taken against the applicant in any state;

(5) Upon request, a complete set of fingerprints and a recent photograph of each sole proprietor, owner, director, officer, partner, member, and controlling person; and

(6) An application fee.

Any information in the application regarding a personal residential address or telephone number, and any trade secret as defined in RCW 19.108.010 including any financial statement that is a trade secret is exempt from the public disclosure requirements of chapter 42.17 RCW.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-130, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200, 05-22-009, § 208-630-130, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-320 What examination authority does the director have?** The director determines the frequency of examinations for the purpose of determining compliance with chapter 31.45 RCW and these rules.

The director or designee may at any time examine the records and documents used in the business of any licensee or licensee's agent wherever located. This includes licensees whose business is conducted entirely on the internet.

The director or designee may examine the records and documents of any person the director believes is engaging in unlicensed business governed by chapter 31.45 RCW wherever located.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-320, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200, 05-22-009, § 208-630-320, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-430 When may a licensee expect a fee increase?** (1) On January 1, 2008, the fee and assessment rates under WAC 208-630-400 will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-430, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200, 05-22-009, § 208-630-430, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-470 What types of information must a licensee include on a borrower's application for a small loan?** The licensee must require and maintain an application for each borrower in each small loan transaction. Each application must contain the borrower's full name, Social Security number or other unique identifier acceptable to the director, current address, loan origination date, and whether the applicant is a military borrower at any time prior to the termination date of the loan. As used in this section "other unique identifier" means a state identification card, a passport, a document issued by the U.S. Immigration and Customs Enforcement that provides identification of the borrower, a matricula consular, a driver's license, or other forms as approved by the director.

Licensees may rely upon an applicant representation regarding the applicant's military status, and are not required to conduct an independent investigation regarding military status.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-470, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200, 05-22-009, § 208-630-470, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-505 What process must a licensee follow when a borrower pays off a small loan, or makes a payment toward a payment plan, with cash?** A licensee must prepare a receipt with information that includes, but is not limited to, the date of the payment, the borrower's name, the amount of the cash received, an indication that the payment was made in cash, an indication that the payment was made either on a loan, or towards a payment plan, the borrower's signature, and an authorized signature, stamp, or other authenticating mark of the licensee confirming that the licensee received the payment.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-505, filed 11/20/07, effective 12/21/07.]

**WAC 208-630-5401 What duties and restrictions must a licensee comply with when making loans to military borrowers?** (1) For purposes of this section, "military borrower" means any active duty member of the armed forces of the United States, or any member of the National Guard or the reserves of the armed forces of the United States who has been called to active duty.

(2) A licensee must:

(a) Comply with the restrictions on loans to military borrowers and their dependents as required by Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 and 32 C.F.R. Part 232, as amended.

(b) Honor the terms of any repayment agreement, including any repayment agreement negotiated through military counselors or third party credit counselors.

(c) Defer all collection activity against a military borrower who has been deployed to a combat or combat support posting, for the duration of the posting.

(3) A licensee must not:

(a) Garnish any wages or salary paid to a military borrower for service in the armed forces when collecting any delinquent small loan.

(b) Contact a military borrower's chain of command in an effort to collect a delinquent small loan.

(c) Make a loan to a person known to the licensee to be a military borrower from a specific location when the military borrower's commander has notified the licensee in writing that the specific location is designated off-limits to military personnel under their command.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-5401, filed 11/20/07, effective 12/21/07.]

**WAC 208-630-560 What types of disclosures must a licensee make to a borrower?** (1) A licensee must deliver to the borrower at the time the licensee makes a small loan, a disclosure that meets the requirements of all applicable laws, including the federal Truth in Lending Act.

(2) A licensee must deliver to the borrower at the time the licensee makes the small loan a disclosure of the right to rescind the loan and the right to convert the loan to a payment plan.

(3) A licensee who complies with the federal Truth in Lending Act and Regulation Z, 12 C.F.R. Part 226, will be deemed in compliance with this act.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-560, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200, 05-22-009, § 208-630-560, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-580 In addition to providing disclosures to the borrower, does a licensee have to post any disclosures?** (1) Licensees that make small loans must post the following notices at each location where small loans are made:

(a) A conspicuous notice substantially in the form set forth in WAC 208-630-570; and

(b) A conspicuous notice of how consumers may contact the department, substantially in the following form: "If you have questions about your rights and responsibilities when taking out a payday loan, contact the Department of Financial Institutions at 1-877-746-4334, or 360-902-8700, or 150 Israel Road S.W., Tumwater, Washington, 98501."

(2) Licensees that make small loans using the internet must post the notices required by subsection (1) of this section in a conspicuous location on their web sites.

(3) Licensees may download a copy of the notice required by subsection (1)(b) of this section from the department's web site or by contacting the department directly.

[Statutory Authority: RCW 43.320.040, 07-23-094, § 208-630-580, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200, 05-22-009, § 208-630-580, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-610 What are the accounting and financial records that a licensee must keep?** Licensees must maintain as a minimum the following records for at least two years.

(1) A licensee must maintain a record of transactions conducted. Such a record may be limited to the following provided a sufficient audit trail is available through records obtainable from the licensee's bank of account:

(a) Amount of the checks cashed;

(b) Amount of fees charged for cashing the check;

(c) Amount of cash deducted from the transaction for the sales of other services or products;

- (d) Amount of each check or monetary instrument sold;
- (e) Amount of fee charged for the monetary instrument;
- (f) Amount of small loan proceeds disbursed;
- (g) Fees charged for small loans;
- (h) Amount of payments on small loans received;
- (i) Origination date of each small loan;
- (j) Termination date of each small loan;
- (k) Payment plan payment due dates;
- (l) The information required to be maintained for applications in the rule;

(m) Records of cash payments made on small loans. The record must include the date of the payment, the borrower's name, the amount of cash received, the identity of the employee who received the cash, and whether the payment was applied to a loan or payment plan;

- (n) Copies of receipts required under WAC 208-630-505.

(2) Licensees must maintain a cash reconciliation summarizing each day's activity and reconciling cash on hand at the opening of business to cash on hand at the close of business. Such reconciliation must separately reflect cash received from the sale of checks, redemption of returned items, bank cash withdrawals, cash disbursed in cashing of checks, cash disbursed in making small loans, cash received in payment of small loans and bank cash deposits.

(3) Records of the disbursement of loan proceeds and the receipt of all payments on the balance of small loans must be kept and must indicate the date of the transaction, the borrower's name, amount, and whether the disbursement or payment is on a loan or payment plan.

[Statutory Authority: RCW 43.320.040. 07-23-094, § 208-630-610, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200. 05-22-009, § 208-630-610, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-710 What other federal and state laws and regulations must a licensee comply with?** Each licensee must comply with applicable federal and state laws including, but not limited to, applicable provisions of the following:

(1) Washington laws: Chapter 63.29 RCW, the Uniform Unclaimed Property Act.

(2) Federal Laws and Regulations:

- "Bank Secrecy Act (BSA)" means the Currency and Foreign Transactions Reporting Act, 31 U.S.C. Sec. 5311-5330 and 12 U.S.C. Sec. 1818(s), and 1951-1959, 31 C.F.R. Part 103.

- "Department of Defense Military Borrower Rules" means Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 and 32 C.F.R. Part 232.

- "Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. Sec. 1691 et seq., Regulation B, 12 C.F.R. Part 202.

- "Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq.

- "Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

- "Gramm-Leach-Bliley Act (GLBA)" means the Financial Modernization Act of 1999, 15 U.S.C. Sec. 6801-6809,

and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 C.F.R. Parts 313-314.

- "Telemarketing and Consumer Fraud and Abuse Prevention Act" means the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. Sec. 6101-6108, Telephone Sales Rule, 16 C.F.R. Part 310.

- "Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Sec. 1601 et seq., Regulation Z, 12 C.F.R. Part 226 et seq.

[Statutory Authority: RCW 43.320.040. 07-23-094, § 208-630-710, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200. 05-22-009, § 208-630-710, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-711 What are the minimum requirements of a policy that protects borrowers' nonpublic personal information (NPI) under the Gramm-Leach-Bliley Act?** (1) Each licensee must establish policies and procedures with administrative, technical, and physical safeguards appropriate to such licensee's size and complexity, the nature and scope of the licensee's activities, and the sensitivity of borrower information:

(a) To insure the security and confidentiality of borrowers' records and information;

(b) To protect against any anticipated threats or hazards to the security or integrity of such records; and

(c) To protect against any unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any borrower.

(2) The policies and practices must, at a minimum, contain the following elements:

(a) A privacy notice to consumers before you share their NPI with nonaffiliated third parties not otherwise excepted;

(b) A plan to limit the reuse and redisclosure of NPI you receive from a nonaffiliated financial institution. The limits of your use depend on how the information is disclosed to you; and

(c) A plan to prevent the disclosure of account numbers or similar access numbers or codes for marketing purposes.

[Statutory Authority: RCW 43.320.040. 07-23-094, § 208-630-711, filed 11/20/07, effective 12/21/07.]

**WAC 208-630-712 When must a licensee obtain identifying information about its customers?** Each licensee must obtain, verify and maintain records of identifying information about its customers to the extent required by applicable law, including, without limitation, in the following situations:

(1) When completing and filing suspicious activity reports (SARs) of any suspicious transaction relevant to a possible violation of any law or regulation, as required by 31 C.F.R. Section 103.20.

(2) When completing and filing currency transaction reports (CTRs) for transactions involving more than ten thousand dollars in currency in any one day, as required by 31 C.F.R. Section 103.22.

(3) When issuing or selling one or more checks or drafts, cashier's checks, money orders, or traveler's checks for three thousand dollars or more, in currency in any one day, as required by 31 C.F.R. Section 103.29.

[Statutory Authority: RCW 43.320.040. 07-23-094, § 208-630-712, filed 11/20/07, effective 12/21/07.]

**WAC 208-630-720 Is a licensee required to register as a money service business with the Secretary of the Treasury?** Licensees may be required to register as a money services business (MSB) under the Bank Secrecy Act, 31 U.S.C. Section 5330, or any regulations promulgated thereunder. Generally, an MSB is a business that cashes checks or exchanges currency (other than as an agent for another business) in an amount greater than one thousand dollars in currency or monetary or other instruments for any person on any day, in one or more transactions.

[Statutory Authority: RCW 43.320.040. 07-23-094, § 208-630-720, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.-040, 31.45.030, 31.45.050, 31.45.200. 05-22-009, § 208-630-720, filed 10/21/05, effective 11/21/05.]

**WAC 208-630-721 If a licensee is considered a money service business (MSB) under the Bank Secrecy Act (see WAC 208-630-720), what are the minimum requirements for the anti-money laundering program the licensee must develop?** A licensee who qualifies as a money services business under the Bank Secrecy Act must develop, implement, and maintain an effective anti-money laundering program consistent with federal law and the requirements of 31 C.F.R. Section 103.125.

[Statutory Authority: RCW 43.320.040. 07-23-094, § 208-630-721, filed 11/20/07, effective 12/21/07.]

**WAC 208-630-8201 What business practices are prohibited?** (1) It is a violation of this chapter for any person subject to this chapter to:

(a) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(b) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(c) Directly or indirectly obtain property by fraud or misrepresentation;

(d) Make a small loan to any person physically located in Washington through use of the internet, facsimile, telephone, kiosk, or other means without first obtaining a small loan endorsement;

(e) Directly or indirectly refer a borrower, or encourage a borrower, to use the services of more than one payday lending business that results in an amount outstanding that exceeds the loan limit in RCW 31.45.073; and

(f) Directly or indirectly structure a loan transaction in order to exceed the loan limit in RCW 31.45.073.

(2) In addition to any other penalties, any transaction in violation of this section is uncollectible and unenforceable.

[Statutory Authority: RCW 43.320.040. 07-23-094, § 208-630-8201, filed 11/20/07, effective 12/21/07.]

**Chapter 208-660 WAC**  
**MORTGAGE BROKERS AND LOAN**  
**ORIGINATORS—LICENSING**  
 (Formerly chapter 50-60 WAC)

**WAC**

208-660-350

Loan originators—Licensing.

**WAC 208-660-350 Loan originators—Licensing. (1) How do I apply for a loan originator license?**

(a) **Pass a licensing test.** You must take and pass a test that assesses your knowledge of the mortgage business and related regulations. See WAC 208-660-360, Loan originators—Testing.

(b) **Submit an application.** The application form will be prescribed by the director.

(c) **Prove your identity.** You must provide information to prove your identity.

(d) **Pay the application fee.** You must pay an application fee to cover the department's cost of processing and reviewing applications. See WAC 208-660-550, Department fees and costs.

(2) **In addition to reviewing my application, what else will the department consider to determine if I qualify for a loan originator license?**

(a) **General fitness and prior compliance actions.** The department will investigate your background to see that you demonstrate the experience, character, and general fitness that commands the confidence of the community and creates a belief that you will conduct business honestly and fairly within the purposes of the act. This investigation may include a review of the number and severity of complaints filed against you, or any person you were responsible for, and a review of any investigation or enforcement activity taken against you, or any person you were responsible for, in this state, or any jurisdiction.

(b) **License suspensions or revocations.** You are not eligible for a loan originator license if you have been found to be in violation of the act or the rules, or have had a license issued under the act or any similar state statute suspended or revoked within five years of the filing of the present application.

(c) **Criminal history.** You are not eligible for a loan originator license if you have been convicted of a gross misdemeanor involving dishonesty or financial misconduct, or a felony, within seven years of the filing of the present application.

(3) **May I originate residential mortgage loans in Washington without a loan originator license?** Persons conducting the business of a loan originator without an active loan originator license must fall under one of the following categories of exemption from loan originator licensing:

(a) Persons conducting residential mortgage loan business exclusively for any exempt person under RCW 19.146.020 (1)(a)(i); or

(b) The exclusive agents conducting residential mortgage loan business for any exempt person under RCW 19.146.020 (1)(a)(ii); or

(c) The bona fide employees conducting residential mortgage loan business exclusively for any exempt person under RCW 19.146.020 (1)(b), (e), (g) or (h); or

(d) Those persons exempt under RCW 19.146.020 (1)(c) or (d).

**(4) What will happen if my loan originator license application is incomplete?** The department will reject and return the entire application package to you with a notice identifying the incomplete, missing, or inaccurate information. You must follow the department's directions to correct the problems. You may then resubmit the application package.

**(5) How do I withdraw my application for a loan originator license?** Provide the department with a written request to withdraw your application in a form prescribed by the director.

**(6) When will the department consider my loan originator license application to be abandoned?** If you do not respond within ten business days to the department's second request for information, your loan originator license application is considered abandoned. Failure to provide the requested information will not affect new applications filed after the abandonment. You may reapply by submitting a new application package.

**(7) What happens if the department denies my application for a loan originator license, and what are my rights if the license is denied?**

(a) The department will notify you if your application is denied. You will receive a refund of any unused portion of the application fee.

(b) If your license application lists any mortgage brokers, the department will also notify the mortgage brokers of the license denial.

(c) Under the Administrative Procedure Act, chapter 34.05 RCW, you have the right to request brief adjudicative proceeding. To request a hearing, notify the department, in writing, within twenty days from the date of the director's notice to you notifying you your license application has been denied.

(i) Brief Adjudicative Proceeding Adopted. The director adopts RCW 34.05.482 through 34.05.494 to administer brief adjudicative proceedings under WAC 208-660-350.

(ii) Presiding Officer. Brief adjudicative proceedings are conducted by a presiding officer designated by the director. The presiding officer must have department expertise in the subject matter, but must not have personally participated in the department's licensing application denial, or work in the department's division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules.

(iii) Preliminary Records. The preliminary record for the brief adjudicative proceeding consists of the application and all associated documents including all documents relied upon by the department to deny the application and all correspondence between the applicant and the department regarding the application.

(iv) Notice of Hearing. The department will set the date, time, and place of the hearing, giving at least seven business days notice to the applicant.

(v) Written Documents. The applicant or their representatives may present written documentation. The presiding officer must designate the date for submission of written documents.

(vi) Oral Argument. The presiding officer may exercise discretion in allowing oral argument.

(vii) Witnesses. Witnesses will not be allowed to testify.

(viii) Agency Expertise Considered. The presiding officer may rely upon agency expertise in addition to the written record as a basis for a decision.

(ix) Initial Order. The presiding officer must make a written initial order within ten business days of the final date for submission of materials, or oral argument, if any. The initial order will become final twenty-one days after service on the applicant unless the applicant requests an administrative review or the department decides to review the matter.

**(8) How will the department provide me with my loan originator license?** The department may use any of the following methods to provide you with your loan originator license:

(a) A printed paper license sent to you by regular mail.

(b) A license sent to you electronically that you may print.

(c) A license verification available on the department's web site and accessible for viewing by the public.

**(9) May I transfer, sell, trade, assign, loan, share, or give my loan originator license to someone else?** No. A loan originator license authorizes only the individual named on the license to conduct the business at the location listed on the license.

**(10) How do I change information on my loan originator license?** You must file a license amendment application with the department, in a form prescribed by the department within thirty days of the change occurring.

**(11) If I am employed by a bank or other exempt entity may I apply for and receive a loan originator license?** Yes, you may apply for a license at any time. However, if you are not working for a licensed mortgage broker, your license will be considered inactive.

**(12) What is an inactive loan originator's license?** If an individual holds a loan originator license but is not working with a licensed mortgage broker, they hold an inactive license. A person holding an inactive license may not hold themselves out as a licensed loan originator.

**(13) When my loan originator's license is inactive, am I subject to the director's enforcement authority?** Yes. Your license is granted under specific authority of the director and under certain situations you may be subject to the director's authority even if you are not doing any activity covered by the act.

**(14) When my loan originator license is inactive, must I continue to pay annual fees, and complete continuing education for that year?** Yes. You must comply with all the annual licensing requirements or you will be unable to renew your inactive loan originator license.

**(15) May I originate loans from a web site when my license is inactive?** You may not originate loans, or engage in any activity that requires a license under the act, while your license is inactive, except as allowed in subsection (3) of this section.

**(16) How do I activate my loan originator license?** When the department receives a notice, in a form prescribed by the department, from a licensed mortgage broker establishing a working relationship with you, your loan originator license will become active. The department will notify you

and all mortgage brokers you are working with of the new working relationship established by the licensed mortgage broker.

**(17) When may the department issue interim loan originator licenses?** To prevent an undue delay, the director may issue interim loan originator licenses with a fixed expiration date. The license applicant must have substantially met the initial licensing requirements, as determined by the director, to receive an interim license.

For purposes of this section, undue delay includes the adjustment of license expiration or renewal dates to coincide with the implementation of systems designed to assist in uniformity and provide data repositories of licensing information.

One example of having substantially met the initial licensing requirements is: Submitting a complete application, paying all application fees, and the department having received and reviewed the results of the applicant's background check.

**(18) When does my loan originator license expire?** The loan originator license expires annually. The expiration date is shown on the license. If the license is an interim license, it may expire in less than one year.

**(19) How do I renew my loan originator license?**

(a) Before the license expiration date you must:

(i) Pay the annual assessment fee; and

(ii) Meet the continuing education requirement.

(b) The renewed license is valid until it expires, or is surrendered, suspended or revoked.

**(20) If I let my loan originator license expire, must I apply to get a new license?** If you complete all the requirements for renewal within forty-five days of the expiration date you may renew an existing license. However, if you renew your license during this forty-five day period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection (19) of this section for the license renewal requirements.

During this forty-five day period, your license is expired and you must not conduct any business under the act that requires a license.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or department "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must apply for a new license.

**(21) May I still originate loans if my loan originator license has expired?** No. Once your license has expired you may no longer conduct the business of a loan originator as defined in the act and these rules.

**(22) What happens to the loan applications I originated before my loan originator license expired?** Existing loan applications must be processed by the licensed mortgage broker or another licensed loan originator working for the mortgage broker.

**(23) May I surrender my loan originator's license?** Yes. You may surrender your license before the license expires by notifying the department, in a form prescribed by the department.

Surrender of your loan originator license does not change your civil or criminal liability, or your liability for any administrative actions arising from acts or omission occurring before the license surrender.

**(24) Must I display my loan originator license where I work as a loan originator?** No. Neither you nor the mortgage broker company is required to display your loan originator license. However, evidence that you are licensed as a loan originator must be made available to anyone who requests it.

**(25) If I operate as a loan originator on the internet, must I display my license number on my web site?** Yes. You must display your license number, and the license number and name as it appears on the license of the licensed mortgage broker you represent, on the web site.

**(26) Must I include my loan originator license number on any documents?** You must include your license number immediately following your name on solicitations, including business cards, advertisements, and residential mortgage loan applications.

**(27) When must I disclose my loan originator license number?** In the following situations you must disclose your loan originator license number and the name and license number of the mortgage broker you are associated with:

(a) When asked by any party to a loan transaction, including third party providers;

(b) When asked by any person you have solicited for business, even if the solicitation is not directly related to a mortgage transaction;

(c) When asked by any person who contacts you about a residential mortgage loan;

(d) When taking a residential mortgage loan application.

[Statutory Authority: RCW 43.320.040, 19.146.223, 2006 c 19, 07-13-079, § 208-660-350, filed 6/18/07, effective 7/19/07; 06-23-137, § 208-660-350, filed 11/21/06, effective 1/1/07.]

## Chapter 208-680B WAC

### ESCROW—LICENSING AND EXAMINATION

(Formerly chapter 308-128B WAC)

#### WAC

208-680B-081 Fee increase.

**WAC 208-680B-081 Fee increase.** (1) On January 1, 2008, the fee and assessment rates under WAC 208-680B-080 will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

[Statutory Authority: RCW 43.320.040, 18.44.410, 07-22-010, § 208-680B-081, filed 10/25/07, effective 11/25/07. Statutory Authority: RCW 18.44.-410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200, 01-12-029, § 208-680B-081, filed 5/29/01, effective 7/1/01.]

**Chapter 208-680C WAC**  
**ESCROW—ESCROW AGENT OFFICE**  
 (Formerly chapter 308-128C WAC)

**WAC**

208-680C-060      Reporting significant events.

**WAC 208-680C-060 Reporting significant events. (1) Ten days prior notification required.** An escrow agent must notify the director in writing ten days prior to a change of the escrow agent's:

(a) Location or mailing address of the escrow agent office or branch office. See RCW 18.44.061 and WAC 208-680C-040;

(b) Form of business organization or place of organization (for example, from sole proprietor to corporation);

(c) Name and mailing address of the out-of-state escrow agent's registered agent; or

(d) Legal or trade name.

**(2) Ten days post notification required.** An escrow agent must notify the director in writing within ten days after an occurrence of any of the following:

(a) The cancellation or expiration of its Washington state master business license;

(b) A change in its standing with the state of Washington secretary of state, including the resignation or change of the registered agent;

(c) The licensed escrow agent filing for bankruptcy;

(d) The personal bankruptcy of a principal officer or controlling person; or

(e) The licensed escrow officer or designated escrow officer filing for personal bankruptcy.

**(3) Other notification requirements.**

(a) In the event of an escrow office closure, see WAC 208-680C-045.

(b) For a transfer involving all or substantially all of its assets, the escrow agent must comply with WAC 208-680B-015(3).

(c) For a change in principal officer or controlling person of a licensed escrow agent, the escrow agent must comply with WAC 208-680B-015(4) and 208-680B-020(4).

(d) For changes in designated escrow officer or branch designated escrow officer, see WAC 208-680D-010.

(e) For termination of a licensed escrow officer, the escrow agent must notify the department within three business days that the escrow officer no longer represents the escrow agent. If the escrow officer was terminated for dishonesty or financial misconduct involving the business, the escrow agent must provide the department with that information. Within ten business days of the termination, the escrow agent must deliver the escrow officer's license to the department. See RCW 18.44.101.

(f) For the filing of quarterly reports, see WAC 208-680E-025.

(g) For suit or complaint notification, see WAC 208-680D-070.

(h) Any changes to the escrow agent's bonds, or the bonds of the escrow agent's licensed escrow officers, as required under RCW 18.44.201, must be reported to the department within five days.

(i) Within five business days of the escrow agent's license being revoked, surrendered, suspended, or the license expiring, the escrow agent shall notify the principals of pre-existing escrows of the action. The contents of the notification must comply with RCW 18.44.465.

[Statutory Authority: RCW 43.320.040, 18.44.410. 07-22-010, § 208-680C-060, filed 10/25/07, effective 11/25/07.]

**Chapter 208-680E WAC**  
**ESCROW—TRUST ACCOUNT PROCEDURES**  
 (Formerly chapter 308-128C WAC)

**WAC**

208-680E-025      Quarterly reports.

**WAC 208-680E-025 Quarterly reports. (1)** For purposes of determining compliance with chapter 18.44 RCW and chapter 208-680 WAC, each escrow agent shall file with the director, within thirty days following the end of each fiscal quarter, the following:

(a) A report concerning its operations;

(b) A report concerning the trust account administration; and

(c) A one page summary of the three way reconciliation from the last month of the quarter.

All reports must be in a form prescribed by the director.

(2) As to trust account matters, the designated escrow officer of the escrow agent shall certify under penalty of perjury, in a manner consistent with RCW 9A.72.085, that he or she has reviewed the report and any exhibits filed with it and that the information contained in the report and in any exhibits is true and correct. The chief executive officer or chief financial officer of the escrow agent, or other knowledgeable person acceptable to the director, may certify the information on the report not related to trust account matters.

(3) Failure to file the report within the time period specified in this rule shall be considered a violation of RCW 18.44.430.

[Statutory Authority: RCW 43.320.040, 18.44.410. 07-22-010, § 208-680E-025, filed 10/25/07, effective 11/25/07. Statutory Authority: RCW 18.44.-410. 05-03-038, § 208-680E-025, filed 1/10/05, effective 2/10/05.]